# Scheme Advisory Board - Committee Local Pension Board Effectiveness

12th May 2017

# Agenda

- Introductions and Objectives

- TPR Focus 2017/2018

- TPR – Governance and Admin survey

- Current landscape

- Any Barriers

- The Future…

- Terms of Reference

# Contents

- Regulating Public Service Pension Boards
- TPR focus 2017/18
  - Governance
  - Record keeping
  - Internal controls
  - Member communications
- Challenges ahead
- Questions

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# Legislative requirements
# Code of practice – No 14

**Governing your scheme**

1. Knowledge and understanding required by pension board members
2. Conflicts of interest and representation
3. Publishing information about schemes

**Managing risks**

4. Internal controls

**Administration**

5. Scheme record-keeping
6. Maintaining contributions
7. Providing information to members

**Resolving issues**

8. Internal dispute resolution
9. Reporting breaches of the law

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# Regulatory powers

**Our powers**

- **Collect data** – through scheme return

- **Information** – require any relevant person to produce any relevant document or information

- **Inspection** – send in an inspector

- **Skilled person report** – require scheme managers to provide a report made by a skilled person nominated by the regulator

- **Improvement notices and third party notices** – require specific action to be taken within a certain time.

- **Appoint skilled person** – to assist the pension board

- **Report misappropriation** – notify the scheme manager about pension board conflicts or misuse regarding assets

- **Recover unpaid contributions** from employers on behalf of the scheme manager

- **Publish reports** – about a case

- **Civil penalties** – up to £5,000 to an individual or £50,000 to a corporate body

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# Roles and responsibilities

- **Responsible authority**

  - The responsible authority designs the scheme and makes the scheme regulations, which will specify the Scheme manager and the matters for which the Pension board is responsible. For the Firefighters Pension Scheme (England) the responsible authority is the Home Secretary (Home Office)

- **Scheme manager**

  - The Scheme manager has overall management or administration responsibility for a scheme. For the Firefighters Pension Scheme the administering authority is the Scheme manager.

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# Roles and responsibilities (cont)

**Pension boards**

- Pension boards are responsible for assisting the Scheme manager in securing compliance with:

    – scheme regulations

    – other governance and administration legislation

    – any requirements of The Pensions Regulator

    – additional matters, if specified by scheme regulations

    – Pension boards need to have an equal number of employer representatives and member representatives. They may also have other types of members, such as independent experts.

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# Roles and responsibilities (cont)

- **Scheme advisory board**
  - The scheme advisory board is responsible for advising the Responsible authority about possible scheme changes. In some schemes, the board may also advise Scheme managers and/or Pension boards on improving the administration and management of the scheme.

- **The Pensions Regulator**
  - The Pensions Regulator (TPR) and government departments have roles in relation to public service schemes. TPR directly regulates Scheme managers and pension boards, but will engage with other stakeholders.

- **Scheme administrators**
  - The scheme administrator keep records, collect contributions and pay benefits to members. They may be in-house or a third party.

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# Roles and responsibilities (cont)

- **Employers**

  – Employers may carry out a number of tasks including:

  – paying contributions ; keeping and providing data to the scheme manager and/or administrator

  – dealing with disputes

- **Scheme advisers**

  – Advisers and service providers can help those governing and administering schemes to make informed decisions.

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# TPR focus 2017/18

- Ongoing risk assessment and intelligence gathering
    - Survey shortly for publication – 90% response rate covering 98% of combined membership.

- Increasing focus on locally-administered schemes

- Key focus areas:
    - Governance
    - Record-keeping
    - Internal controls
    - Member communications

We will use our educate/enable/enforce regulatory approach to help schemes comply and address key risks

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# Governance

- **Scheme manager** accountable party for most requirements.

- Some confusion remains on roles and responsibilities especially on pension boards

- <u>Variety of practice in how scheme managers work with pension boards</u>.

  – Scheme managers should use this valuable resource

  – Pension boards should take an active role in identifying key risks and driving forward improvements

- 21C governance key focus for TPR this year

  – Includes basic compliance

# Record - keeping

- Good record keeping is a key part to the good running of a scheme

- All schemes need to have good records to meet legal obligations

- We know from engagement that standards vary widely, and some schemes do not prioritise this appropriately, **so**

- TPR expects
  - Scheme managers to engage with administrators over service and security
  - Assess data and put in place a plan to address issues

- Further messaging on record-keeping due this year, including guidance on developing an improvement plan and setting out expectations on data security

# Internal Controls

- The **scheme manager** must establish and operate adequate internal controls to enable them to administer and manage their scheme in accordance with the scheme rules and the law.

- Internal controls are systems, arrangements and procedures for:
  - scheme administration and management
  - monitoring that administration and management

- Includes:
  - Managing risk
  - Controls around administrators and employers (lessons from the NAO report)
  - Identifying and reporting breaches of the law

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# Reporting breaches of the law

- Legal duty to report a breach of the law that is likely of material significance to TPR for

  - Scheme Manager

  - Pension Board Member

  - Professional Advisers

  - Employers

  - Administrators and others providing advice to the Manager

- Reporters to determine if a breach has occurred based on reasonable cause and not a mere suspicion

- TPR provides example scenarios and RAG system for assessing scale of materiality, by way of

  - Cause

  - Effect

  - Reaction

  - Wider implications

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# Member communications

- New requirement to issue Annual Benefit Statement

- Lessons learnt from early LGPS experience fed into a [quick guide](#)

- We expect schemes to tackle the issues faced in the early years and for the proportion of members who receive their statements on time to improve

- Good communications are not just timely and accurate, but also clear – many pension boards advise on this perspective.

# Useful Links

- **The Pensions Regulator (TPR)** http://www.thepensionsregulator.gov.uk/

- **TPR Code of Practice No 14 – Governance and Administration of Public Service Pension Schemes**

  http://www.thepensionsregulator.gov.uk/public-service-schemes/code-of-practice.aspx

- **Public Service area on TPR website**

  http://www.thepensionsregulator.gov.uk/public-service-schemes.aspx

- **TPR Public Service - Scheme Self Assessment Toolkit**

  http://www.thepensionsregulator.gov.uk/public-service-schemes/assess-your-scheme.aspx

- **TPR Public Service – Personal Self Assessment Tool**

  https://education.thepensionsregulator.gov.uk/login/index.php

- **TPR guidance on Pension Scams**

  http://www.thepensionsregulator.gov.uk/pension-scams.aspx

- **TPR News by email**

- https://forms.thepensionsregulator.gov.uk/news-by-email/subscribe

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# Who's Who

## Pension Board

- Assist Scheme Manager
- Ensure Compliance
- Ensure efficiency & effectiveness of administration
- Advise on member communications
- Monitor complaints

## Scheme Manager

- Administer schemes
- Make scheme decisions
- Issue Communications
- Publish data
- Auditing
- IDRP

## Scheme Advisory Board

- Advise Secretary of State on request of desirability to change of scheme rules
- Cost Cap/Valuation
- Support LPB's
- Benchmarking
- Oversee standards
- Strategic communications

# TPR Admin and Governance Survey

- Comments provided in confidence

# Key Processes

- Conflicts Policy and Procedure
- Knowledge and Understanding
- Assessing & Managing Risks
- Identify, assess & report breaches of law
- Processes to monitor records for all membership types
- Have a process in place for resolving payment issues
- Only 32% of Fire schemes reported having all 6 key processes in place

# Internal Controls

- However, some concerning gaps remain:
  - 28% of schemes could not confirm they had risk processes in place and 30% are potentially operating without a risk register.
  - Though scheme managers, pension board members and other parties have a duty to report breaches of the law to us in certain circumstances, 16% of schemes could still not confirm if they had processes in place to do so.
- These gaps are mainly in locally-administered firefighters' and police pension schemes. We will focus our face-to-face education on these schemes and work with scheme advisory boards where appropriate to drive real improvements in the coming year.

# Scheme Managers

- We are concerned that a significant minority of scheme managers and pension board members may not be effective in, or even fully aware of, their governance duties:

    - 23% of survey responses were completed without involving the scheme manager, who is ultimately accountable for most of the legal requirements. The pension board chair was involved in only 28% of survey responses, and other pension board members in only 21%.

    - Over a quarter (27%) of scheme managers do not attend pension board meetings regularly, and 17% never attend.

    - Our discussions with scheme managers, pension boards and other stakeholders have highlighted some gaps in understanding the roles and responsibilities of various parties involved in public service pension schemes, particularly pension boards.
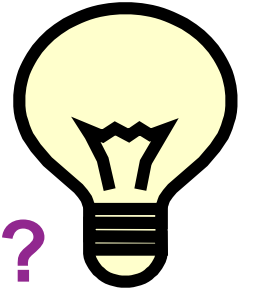
# TPR and Scheme Advisory Board Focus?

- Governance

- Record keeping

- Internal controls

- Member communications

# Internal Controls

**Scheme Manager Engagement**

- Can you identify who is the delegated scheme manager
- Does the scheme manager regularly attend board meetings?
- Does the chair of the board have regular meetings with the scheme manager
- Are there barriers to the above

**Arrangements and Procedures for administration and scheme management**

- Are they the same thing?
- Who is responsible for managing the scheme, does that include administration?

**Who monitors?**

- Does the 'scheme manager' get reports
- Does the scheme manager report to the Chief Fire Officer.
- Does the chief report to the authority?
- What escalation procedures are there?

# TPR Assessment Tool

**Results**

**Using this report**

In this report we have provided an indicative risk rating for each answer you selected, alongside some guidance and links to additional information. This report does not provide an assessment of compliance with the law – it indicates areas that might be of particular concern and where you may wish to focus. You should seek legal advice where required.

To minimise the risk of non-compliance with the law, you should conduct a comprehensive review of your scheme against the requirements set out in the legislation and the guidance provided in our code of practice. Statistics refer to findings from TPR's 2015 survey into the Governance and Administration of Public Service Schemes.

**A summary of your results**
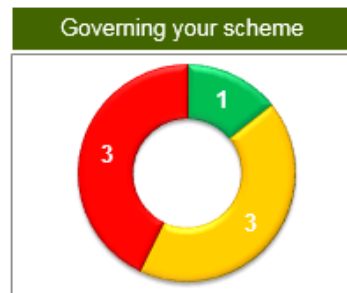
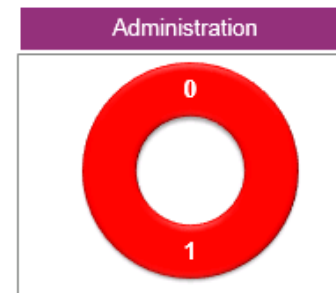| Governing your scheme | Managing risks and issues | Administration |
| --- | --- | --- |
| 1 3 3 | 0 1 | 0 1 |
| Percentage of questions answered: **88%** | Percentage of questions answered: **17%** | Percentage of questions answered: **13%** |

# Simple Risk Register?

| | Governing your scheme | Managing risks and issues (internal controls) | Administration |
|---|---|---|---|
| Low | | | |
| Medium | | | |
| High | | | |

# TPR – Example Risk Register

**Public Service toolkit** downloadable — Example risk register

| Risk area 1 – Operations | Likelihood (1: least likely, 10: most likely) | Impact (1: least likely, 10: most likely) | Score (likelihood x impact) | Control | Owner | Test | Next review | Comment |
|---|---|---|---|---|---|---|---|---|
| Operational disaster (fire/flood etc) | 1 | 6 | 6 | Business continuity procedures in place for administrator | Scheme manager | Annual | Q1 Y2 | Up-to-date business resiliency programme provided by administrator as at 01/01 Y2, reviewed by scheme manager at meeting in Q1 Y2 |
| | | | | Business continuity plans in place for scheme manager | Scheme manager | Annual | Q2 Y2 | Documented programme in place to ensure continuity will be provided by pension finance manager to scheme manager in time for quarterly meeting in Q2 Y2 |
| | | | | Contracts with all advisers and suppliers are recorded on central database | Pension finance manager | Annual | Q1 Y3 | Contracts held in hard copy in safe, and electronically in secure area of scheme management intranet. Checked by pension finance manager January Y2 |
| Member data incomplete or inaccurate | 5 | 7 | 35 | Annual report from administrator, used as basis for rectification plan | Scheme manager | Annual | Q3 Y2 | Initial rectification plan completed Q3 Y1. New report received from administrator at Q1 Y2 meeting, revised rectification plan agreed with administrator. To review progress at Q3 quarterly meeting |
| | | | | 'Not known at this address' returns from annual statements checked by tracing agency | Pension administrator | Annual | Q2 Y2 | Details provided by administrator mid January Y2, passed to tracing agency at end of January. 25% traced by quarterly meeting in Q1, update will be provided to scheme manager for Q2 meeting |
| Administration process failure/ maladministration | 4 | 8 | 32 | Formal agreement in place with administrator, including SLAs | Pension finance manager | Annual | Q1 Y3 | Last reviewed Q2 Y1, three year agreement |
| | | | | Authority levels clearly agreed and kept up-to-date | Scheme manager | Annual | Q2 Y2 | Last reviewed Q2 Y1 |
| | | | | Review independent audit reports of administrator's processes | Scheme manager | Annual | Q2 Y2 | AAF01/06 held by administrator as at DD/MM/YYYY |
| | | | | Ongoing dialogue with third party administrator | Pension administration manager | Ongoing | Q2 Y2 | Weekly phone calls between pension administrator manager and third party administrator, plus ad hoc calls when necessary |
| | | | | Written reports and quarterly presentations by administrator to scheme manager | Scheme manager | Quarterly | Q2 Y2 | Next report from administrator due two weeks before quarterly meeting |

http://www.thepensionsregulator.gov.uk/docs/public-service-example-risk-register.pdf

# Reporting and recording breaches

| | Potential investigation outcomes | | | |
|---|---|---|---|---|
| | **Cause** | **Effect** | **Reaction** | **Wider implications** |
| **Red** | Pension board members have failed to take steps to acquire and retain the appropriate degree of knowledge and understanding about the scheme's administration policies | A pension board member does not have knowledge and understanding of the scheme's administration policy about conflicts of interest. The pension board member fails to disclose a potential conflict, which results in the member acting improperly | Pension board members do not accept responsibility for their failure to have the appropriate knowledge and understanding or demonstrate negative/non-compliant entrenched behaviours<br><br>The scheme manager does not take appropriate action to address the failing in relation to conflicts | It is highly likely that the scheme will be in breach of other legal requirements. The pension board do not have an appropriate level of knowledge and understanding and in turn are in breach of their legal requirement. Therefore, they are not fulfilling their role to assist the scheme manager and the scheme is not being properly governed |
| **Amber** | Pension board members have gaps in their knowledge and understanding about some areas of the scheme's administration policies and have not assisted the scheme manager in securing compliance with internal dispute resolution requirements | Some members who have raised issues have not had their complaints treated in accordance with the scheme's internal dispute resolution procedure (IDRP) and the law | The scheme manager has failed to adhere precisely to the detail of the legislation where the breach is unlikely to result in an error or misunderstanding or affect member benefits | It is possible that the scheme will be in breach of other legal requirements. It is possible that the pension board will not be properly fulfilling their role in assisting the scheme manager |
| **Green** | Pension board members have isolated gaps in their knowledge and understanding | The scheme manager has failed to adhere precisely to the detail of the legislation where the breach is unlikely to result in an error or misunderstanding or affect member benefits | Pension board members take action to review and improve their knowledge and understanding to enable them to properly exercise their functions and they are making quick progress to address gaps in their knowledge and understanding. They assist the scheme manager to take prompt and effective action to remedy the breach | It is unlikely that the scheme will be in breach of other legal requirements. It is unlikely that the pension board is not fulfilling their role in assisting the scheme manager |

**http://www.thepensionsregulator.gov.uk/docs/PS-reporting-breaches-examples-traffic-light-framework.pdf**

# Potential negative outcomes

- Censure by the Pensions Regulator (TPR) for non-compliance with the requirements of the Public Service Pensions Act 2013 and other primary legislation.

- Findings against the authority by the Pensions Ombudsman.

- Failure to fulfil financial responsibilities in accordance with Accounts and Audit (England) regulations 2011.

- Overpayment or underpayment of pension amounts.

- Incomplete data leading to valuation assumptions which could result in increased employer contributions.

- Incorrect tax liabilities for the authority and scheme members.

# Key Documents

- Terms of Reference
- Nomination and Selection Policy
- Code of Conduct
- Conflicts Policy
- Knowledge and Understanding Policy
- Recording and Reporting Breaches Policy
- Training Plan

**Pension Board Training Plan**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| LGA Induction Day | | | | | 20/07/2015 | | | |
| TPR E-Learning - Conflicts of Interest | 22/07/2015 | | 12/10/2015 | 19/08/2015 | 14/08/2015 | 28/07/2015 | 12/10/2015 | 17/08/2015 |
| TPR E-Learning - Managing Risk and Internal Controls | 22/07/2015 | | 12/10/2015 | 19/08/2015 | 14/08/2015 | 28/07/2015 | 12/10/2015 | 17/08/2015 |
| TPR E-Learning - Maintaining Accurate Member Data | 22/07/2015 | | 12/10/2015 | 19/08/2015 | 14/08/2015 | 30/07/2015 | 12/10/2015 | 17/08/2015 |
| TPR E-Learning - Maintaining Member Contributions | 22/07/2015 | | 12/10/2015 | 19/08/2015 | 14/08/2015 | 30/07/2015 | 12/10/2015 | 17/08/2015 |
| TPR E-Learning - Providing Information to members and others | 22/07/2015 | | 12/10/2015 | 19/08/2015 | 14/08/2015 | 30/07/2015 | 12/10/2015 | 17/08/2015 |
| TPR E-Learning - Resolving Internal Disputes | 22/07/2015 | | 12/10/2015 | 19/08/2015 | 14/08/2015 | 30/07/2015 | 12/10/2015 | 17/08/2015 |
| TPR E-Learning - Reporting Breaches of the law | 22/07/2015 | | 12/10/2015 | 19/08/2015 | 14/08/2015 | 30/07/2015 | 12/10/2015 | 17/08/2015 |
| ECFRS Pension Board training session 4/9/15 (Overview of schemes) | 04/09/2015 | 04/09/2015 | 04/09/15 & 08/10/15 | 04/09/2015 | 04/09/2015 | | 08/10/2015 | 04/09/2015 |
| ECFRS Pension Board training session 12/10/15 (Modified Scheme) | | 12/10/2015 | 12/10/2015 | 12/10/2015 | 12/10/2015 | | 12/10/2015 | |

# Data Processes?

**Mid Month Tapers**
- Are pension boards comfortable they will comply with regulations and deduct contributions on time
- How will the changes be managed

**Pensionable Pay**
- Are pension boards comfortable that 2015 pensionable pay can be identified.

**Supplying data to the administrator**
- Mid month contribution changes
- CARE and Final Salary Pensionable Pay
- APP for retirement and death cases
- Final Pay
- On time for valuation and annual benefit statement purposes

# Example agenda items

- Self-Assessment Tool
- Progress of risk register
- Reporting breaches
- Status report on meeting ABS and reconciliation deadlines
- Training log
- Report from regional group
- Report from members?
- Barriers to being effective?

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